



# Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Thirty-fifth Meeting Day

Thursday Afternoon

March 24, 2005

The Senate convened at 1:34 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

Prayer was offered by Senator David C. Ford.

The Pledge of Allegiance to the Flag was led by Senator Ford.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz <input checked="" type="checkbox"/>
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes <input checked="" type="checkbox"/>
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 308: present 48; excused 2. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Engrossed House Bill 1008, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, delete lines 12 through 17.

Delete pages 2 through 4.

Page 5, delete lines 1 through 38.

Page 9, line 3, delete "focus fund and the community" and insert "development block grant program."

Page 9, delete line 4.

Page 10, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 8. IC 5-28-6-2, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The corporation shall develop and promote programs designed to make the best use of Indiana resources to ensure a balanced economy and continuing economic growth for Indiana, and, for those purposes, may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources.

(2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The corporation:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with the terms of the grants; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or an agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(b) The corporation shall perform the following duties:

(1) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities in Indiana and to encourage new industrial, commercial, and business locations in Indiana.

(2) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations in Indiana. The corporation, with the approval of the governor, may establish foreign offices to assist in this function.

(3) Promote the growth of minority business enterprises by doing the following:

- (A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.
- (B) Assisting minority businesses in obtaining governmental or commercial financing for expansion or establishment of new businesses or individual development projects.
- (C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.
- (D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(4) Assist the office of the lieutenant governor in:

- (A) community economic development planning;
- (B) implementation of programs designed to further community economic development; and
- (C) the development and promotion of Indiana's tourist resources.

(5) Assist the commissioner of agriculture in promoting and marketing of Indiana's agricultural products and provide assistance to the commissioner of agriculture.

(6) With the approval of the governor, implement federal programs delegated to the state to carry out the purposes of this article.

(7) Promote the growth of small businesses by doing the following:

- (A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.
- (B) Serving as a liaison between small businesses and state agencies.
- (C) Providing information concerning business assistance programs available through government agencies and private sources.

~~(8) Assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22.~~

~~(9)~~ (8) Establish a public information page on its current Internet site on the world wide web. The page must provide the following:

- (A) By program, cumulative information on the total amount of incentives awarded, the total number of companies that received the incentives and were assisted in a year, and the names and addresses of those companies.
- (B) A mechanism on the page whereby the public may request further information online about specific programs or incentives awarded.
- (C) A mechanism for the public to receive an electronic response.

(c) The corporation may do the following:

- (1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.
- (2) Plan, direct, and conduct research activities.
- (3) Assist in community economic development planning and the implementation of programs designed to further community economic development."

Page 10, between lines 33 and 34, begin a new paragraph and insert:

**"Sec. 4. "Division" refers to the division of soil conservation established by IC 15-9-4-1."**

Page 10, line 34, delete "4." and insert "5."

Page 11, line 4, after "council" insert **"for purposes of administering the duties of the commissioner of agriculture under IC 15-4-10"**.

Page 11, line 6, after "board" insert **"for purposes of administering the duties of the commissioner of agriculture under IC 15-6-4"**.

Page 11, between lines 10 and 11, begin a new line double block indented and insert:

**"(I) The division of soil conservation established by IC 15-9-4-1."**

Page 11, between lines 31 and 32, begin a new paragraph and insert:

**"Chapter 4. The Division of Soil Conservation**

**Sec. 1. The division of soil conservation is established in the department.**

**Sec. 2. The director is the administrative head of the division.**

**Sec. 3. (a) The division shall do the following:**

**(1) Provide administrative and staff support for the soil conservation board.**

**(2) Administer all programs relating to land and soil conservation in Indiana.**

**(3) Manage Indiana's watersheds.**

**(4) Administer the clean water Indiana program.**

**(5) Perform other functions assigned by the secretary or the director.**

**(b) The duties of the division do not include administering the Lake Michigan Coastal program. The Lake Michigan Coastal program shall administer the state's compliance with and provide assistance under the federal Coastal Zone Management Act (16 U.S.C. 33).**

**(c) The duties of the division do not include those listed in IC 14-32-7-12(b)(7)."**

Page 15, between lines 3 and 4, begin a new paragraph and insert:

**"SECTION 14. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "department" refers to the department of agriculture established by IC 15-9-2-1, as added by this act.**

**(b) As used in this SECTION, "director" refers to the director of the department appointed under IC 15-9-3-1, as added by this act.**

**(c) As used in this SECTION, "division" refers to the division of soil conservation established by IC 15-9-4-1, as added by this act.**

**(d) As used in this SECTION, "land and water conservation agency" refers to any of the following:**

**(1) The soil and water conservation functions of the department of natural resources.**

**(2) The soil conservation board.**

**(3) All functions of the department of natural resources or the department of environmental management relating to the clean water Indiana program.**

**(e) As used in this SECTION, "land and water conservation statute" refers to IC 14-32 or IC 6-6-11.**

**(f) After June 30, 2005, the following apply:**

- (1) The powers and duties of a land and water conservation agency are transferred to the division.
  - (2) A reference to a land and water conservation agency in a statute, rule, or other document is considered a reference to the division.
  - (3) All the property of a land and water conservation agency is transferred to the division.
  - (4) An appropriation to a land and water conservation agency in effect after June 30, 2005, is transferred to the division.
  - (5) A fund established by a land and water conservation statute:
    - (A) is transferred to the division; and
    - (B) shall be administered by the division.
  - (6) Positions of a land and water conservation agency are transferred to the division.
  - (7) This subdivision applies to an individual employed by a land and water conservation agency on June 30, 2005:
    - (A) The individual is entitled to become an employee of the division on July 1, 2005.
    - (B) The individual is entitled to have the individual's service as an employee of the land and water conservation agency before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the division.
    - (C) If the employee was covered on June 30, 2005, by a labor agreement to which the state is a party, the division shall continue to be subject to the terms and conditions of the agreement as provided in the labor agreement.
  - (8) All leases and obligations entered into by a land and water conservation agency before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the division beginning July 1, 2005.
  - (g) This SECTION expires July 1, 2006.".
- Renumber all SECTIONS consecutively.  
 (Reference is to HB 1008 as printed February 18, 2005.)  
 and when so amended that said bill do pass.  
 Committee Vote: Yeas 8, Nays 0.

NUGENT, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1776, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 6, line 31, after "person," insert "**or**".

Page 6, line 33, delete "; or" and insert "**and the person:**

- (A) has a mental illness (as defined in IC 12-7-2-130) that may be controlled by medication, and the person has not demonstrated a pattern of voluntarily and consistently taking the person's medication while not under supervision; or
- (B) is the subject of documented evidence that would give rise to a reasonable belief that the person has a

**propensity for violent or emotionally unstable conduct."**

Page 6, delete lines 34 through 37.

Page 7, line 2, delete "states under oath or affirmation" and insert "**provides the court a sworn affidavit:**

- (A) stating why the law enforcement officer believes the person is dangerous and in possession of a firearm; and
- (B) describing the law enforcement officer's interactions and conversations with:

- (i) the person who is alleged to be dangerous; or
- (ii) another individual, if the law enforcement officer believes that information obtained from this individual is credible and reliable;

**that have led the law enforcement officer to believe the person is dangerous and in possession of a firearm;".**

Page 7, delete lines 3 through 6.

Page 7, line 7, delete "statement" and insert "**affidavit**".

(Reference is to HB 1776 as reprinted February 16, 2005.)  
 and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Engrossed House Bill 1335, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 5, delete lines 27 through 32, begin a new paragraph and insert:

**"(g) The state board of accounts shall compare and compile all data reported under subsection (f) into a statewide statistical report. The department shall summarize the data compiled by the state board of accounts that relate to the fixing of township budgets, levies, and tax rates and shall include the department's summary within the statewide statistical report prepared under this subsection. Before July 1, of each year, the state board of accounts shall file the statewide statistical report prepared under this subsection with the executive director of the legislative services agency in an electronic format under IC 5-14-6."**

Page 6, line 6, strike "Before July 1, of each year, the department".

Page 6, line 7, strike "shall".

Page 6, line 7, delete "file:" and insert "**file**".

Page 6, line 8, delete "(1)".

Page 6, line 8, strike "a report in an electronic format under IC 5-14-6 with the".

Page 6, run in lines 7 through 8.

Page 6, strike lines 9 through 10.

Page 6, line 11, strike "subsection".

Page 6, line 11, delete "(e)," and insert "**(e)**".

Page 6, line 11, delete "(f); and".

Page 6, delete lines 12 through 13.

(Reference is to HB 1335 as printed January 28, 2005.)

and when so amended that said bill do pass.  
Committee Vote: Yeas 8, Nays 0.

RIEGSECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1525, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, between lines 31 and 32, begin a new line block indented and insert:

**"(6) A chapter of AMVETS."**

(Reference is to HB 1525 as printed February 15, 2005.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 8, Nays 1.

WYSS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Transportation, to which was referred Engrossed House Bill 1495, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 4 with "[EFFECTIVE UPON PASSAGE]".

Page 3, after line 39, begin a new paragraph and insert:

**"SECTION 5. An emergency is declared for this act."**

(Reference is to HB 1495 as printed February 11, 2005.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 7, Nays 0.

SERVER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1263, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.  
Committee Vote: Yeas 10, Nays 0.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1453, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 6, delete lines 28 through 30.

Page 8, line 21, delete "or threatens to commit".

Page 8, delete lines 35 through 37.

Page 8, line 41, after "County" insert **", unless a court determines that venue in Marion County would be a hardship for a trustee or a trust"**.

(Reference is to HB 1453 as printed February 15, 2005.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 9, Nays 1.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1662, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 20, after "SECTION." insert **"The office and the department of state revenue shall establish a method to allow a facility to enter into an agreement to pay the quality assessment collected under this SECTION subject to an installment plan."**

Page 3, line 26, after "under" strike "the" and insert **"this"**.

Page 3, line 27, delete "act," and insert **"SECTION,"**.

Page 4, line 7, after "facility" insert **"or a health facility"**.

Page 4, line 7, after "charge the" strike "nursing".

Page 4, line 8, strike "nursing".

Page 4, line 38, delete "The procedure governing an" and insert **"An"**.

Page 4, line 42, delete "2009." and insert **"2006."**

(Reference is to HB 1662 as reprinted February 1, 2005.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 7, Nays 0.

MILLER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Engrossed House Bill 1358, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.  
Committee Vote: Yeas 7, Nays 0.

MILLER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Concurrent Resolution 37, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.  
Committee Vote: Yeas 7, Nays 0.

LUBBERS, Chair

Report adopted.

# COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1112, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, after line 6, begin a new line blocked left and insert:

**"(3) An offense under IC 9-30-5-4.**

**(4) An offense under IC 9-30-5-5."**

(Reference is to HB 1112 as printed January 28, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

LONG, Chair

Report adopted.

# COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Engrossed House Bill 1649, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Page 7, line 30, strike "shall" and insert **"may"**.

(Reference is to HB 1649 as printed February 15, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

NUGENT, Chair

Report adopted.

# COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Engrossed House Bill 1302, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 7, Nays 0.

NUGENT, Chair

Report adopted.

# COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1057, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 2, after "3." insert **"(a) This section does not apply to the following:**

**(1) A container possessed by a person who is:**

**(A) not the driver of a motor vehicle; and**

**(B) either:**

**(i) in the passenger compartment of a motor vehicle designed, maintained, or used primarily for the**

**transportation of persons for compensation; or**  
**(ii) in the living quarters of a house coach or house trailer.**

**(2) A container located in a fixed center console or other similar fixed compartment that is locked.**

**(3) A container located:**

**(A) behind the last upright seat; or**

**(B) in an area not normally occupied by a person;**

**in a motor vehicle that is not equipped with a trunk.**

**(b)".**

Page 1, line 2, reset in roman "The".

Page 1, line 2, after "operator" insert **"driver"**.

Page 1, line 2, reset in roman "of".

Page 1, line 2, delete "(a)".

Page 1, delete lines 3 through 14.

Page 1, line 15, delete "(b) A person in".

Page 1, run in lines 2 through 15.

Page 2, line 2, after "knowingly" insert **"or while the motor vehicle is located on the right-of-way of a public highway,"**.

Page 2, line 2, reset in roman "allows".

Page 2, line 2, delete "or while the motor vehicle is located on the".

Page 2, line 3, delete "right-of-way of a public highway, possesses".

Page 2, line 7, reset in roman "to be".

Page 2, line 8, reset in roman "Class B".

Page 2, line 8, delete "Class D".

Page 2, line 8, after "." begin a new paragraph and insert:

**"(c)".**

Page 2, line 8, reset in roman "If a person is found to have a previous".

Page 2, reset in roman lines 9 through 13.

Page 2, delete lines 14 through 18.

(Reference is to HB 1057 as printed January 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

WYSS, Chair

Report adopted.

# COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1594, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

WYSS, Chair

Report adopted.

# COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1080, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

WYSS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Utilities, and Public Policy, to which was referred Engrossed House Bill 1432, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

WYSS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1501, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 3, line 11, after "of" insert ":

(i)".

Page 3, line 11, after "IC 24-4.7" insert ";

(ii) **IC 24-5-12; or**

(iii) **IC 24-5-14;**".

Page 3, line 11, beginning with "for" begin a new line double block indented.

Page 3, line 36, after "IC 24-4.7" insert ", **IC 24-5-12, or IC 24-5-14**".

Page 3, line 41, after "IC 24-4.7," insert "**IC 24-5-12, or IC 24-5-14,**".

Page 4, line 9, after "IC 24-4.7," insert "**IC 24-5-12, or IC 24-5-14,**".

Page 4, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 7. IC 24-4.7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A telephone solicitor who fails to comply with any provision of IC 24-4.7-4 commits a deceptive act that is actionable by the attorney general under this chapter. **In addition, a contractor who contracts or seeks to contract with the state:**

(1) **may be prohibited from contracting with the state; or**

(2) **may have an existing contract with the state voided; if the contractor, an affiliate or principal of the contractor, or any person acting on behalf of the contractor or an affiliate or principal of the contractor does not or has not complied with the terms of this article, even if this article is preempted by federal law.**".

Page 4, line 21, after "to" insert ":

(1)".

Page 4, line 22, delete "." and insert ";

(2) **a violation of:**

(i) **IC 24-4.7;**

(ii) **IC 24-5-12; or**

(iii) **IC 24-5-14.**".

Page 4, line 22, beginning with "Actual" begin a new line blocked left.

Page 5, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 8. IC 24-5-12-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. A seller who fails to comply with any provision of:

(1) this chapter; **or**

(2) **IC 24-4.7;**

commits a deceptive act that is actionable by the attorney general under IC 24-5-0.5-4(c) and is subject to the penalties set forth in IC 24-5-0.5. **An action for a violation of IC 24-4.7 may be brought under IC 24-5-0.5-4(c) or IC 24-4.7-5.** An action by the attorney general for a violation of this chapter **or IC 24-4.7** may be brought in the circuit or superior court of Marion County.".

Page 6, line 10, after "IC 5-22-1-3," delete "and".

Page 6, line 10, after "IC 5-22-2-1," insert "**IC 24-4.7-5-1, and IC 24-5-12-23,**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1501 as printed March 18, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

LONG, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Engrossed House Bill 1270, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 3, delete "knowingly or intentionally".

Page 2, line 3, delete "without".

Page 2, line 4, delete "having" and insert "**knowing that the person does not have the**".

Page 2, line 4, delete "to enter the motor vehicle from" and insert "**of**".

Page 2, line 5, after "vehicle" insert "**to enter the motor vehicle**".

Page 2, line 15, after "crime" insert ", **if the person knew or should have known that a person intended to use the motor vehicle in the commission of a crime.**".

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"(g) **There is a rebuttable presumption that the person did not have the permission of an owner, a lessee, or an authorized operator of the motor vehicle to enter the motor vehicle if the motor vehicle has visible steering column damage or ignition switch alteration.**".

Page 2, delete lines 19 through 42, begin a new paragraph, and insert:

"SECTION 2. IC 35-43-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person who knowingly or intentionally exerts unauthorized control over property of another person commits criminal conversion, a Class A misdemeanor.

**(b) The offense under subsection (a) is a Class D felony if committed by a person who exerts unauthorized control over the motor vehicle of another person with the intent to use the motor vehicle to assist the person in the commission of a crime.**

**(c) The offense under subsection (a) is a Class C felony if:**

- (1) committed by a person who exerts unauthorized control over the motor vehicle of another person; and**
- (2) the person uses the motor vehicle to assist the person in the commission of a felony.**

SECTION 3. [EFFECTIVE JULY 1, 2005] **IC 35-43-4-2.7, as added by this act, and IC 35-43-4-3, as amended by this act, apply to offenses committed after June 30, 2005."**

Page 3, delete lines 1 through 8.

Renumber all SECTIONS consecutively.

(Reference is to HB 1270 as printed February 9, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

LONG, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1153, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, delete lines 2 through 42.

Delete page 3.

Page 4, delete lines 1 through 9.

Page 19, line 6, after "settlor" insert **"who is an attorney in fact"**.

Page 23, line 11, delete "substantially".

Page 31, line 27, after "section, the" insert **"court shall direct the"**.

Page 31, line 27, delete "shall" and insert **"to"**.

Page 32, line 9, after "administration." insert **"If a trust terminates under this subsection, the court shall direct the trustee to distribute the trust property in a manner consistent with the purposes of the trust."**

Page 32, line 10, delete "this section," and insert **"subsection (b),"**.

Page 47, line 31, after "interest" insert **", unless the action is inconsistent with a written directive executed by the principal before the principal's death"**.

Page 49, after line 24, begin a new paragraph and insert:

**"SECTION 60. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1153 as reprinted January 19, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Engrossed House Bill 1113, has had the same under consideration and begs leave to report the same back to the Senate

with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**"SECTION 1. IC 33-34-8-1, AS AMENDED BY P.L.85-2004, SECTION 15, AND AS AMENDED BY P.L.95-2004, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:** Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail fee of thirteen dollars (\$13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars (\$13) for each service.

(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.

(5) A redocketing fee, if any, of five dollars (\$5).

(6) A document storage fee under IC 33-37-5-20.

(7) An automated record keeping fee under IC 33-37-5-21.

(8) A late fee, if any, under IC 33-37-5-22.

(9) *A judicial administration fee under IC 33-37-5-21.2.*

~~(9)~~ **(10) A judicial insurance adjustment fee under IC 33-37-5-25.**

**(11) A judicial salaries fee under IC 33-37-5-27.**

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 2. IC 33-37-4-1, AS AMENDED BY P.L.85-2004, SECTION 16, AND AS AMENDED BY P.L.95-2004, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).
- (15) *A judicial administration fee under (IC 33-37-5-21.2).*
- ~~(15)~~ (16) *A judicial insurance adjustment fee under (IC 33-37-5-25).*
- (17) **A judicial salaries fee (IC 33-37-5-27).**

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.
- (3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.
- (4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.
- (5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 3. IC 33-37-4-2, AS AMENDED BY P.L.85-2004, SECTION 17, AND AS AMENDED BY P.L.95-2004, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the

defendant the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (4) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (5) A highway work zone fee (IC 33-37-5-14).
- (6) A deferred prosecution fee (IC 33-37-5-17).
- (7) A jury fee ~~(IC 33-19-6-17)~~ (IC 33-37-5-19).
- (8) A document storage fee (IC 33-37-5-20).
- (9) An automated record keeping fee (IC 33-37-5-21).
- (10) A late payment fee (IC 33-37-5-22).
- (11) A judicial administration fee under (IC 33-37-5-21.2).*
- ~~(11)~~ (12) *A judicial insurance adjustment fee under (IC 33-37-5-25).*
- (13) **A judicial salaries fee (IC 33-37-5-27).**

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

- (1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

- (1) The defendant was charged with an ordinance violation subject to IC 33-36.
- (2) The defendant denied the violation under IC 33-36-3.
- (3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of ~~IC 34-28-5-4~~ **IC 34-28-5-5** and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 4. IC 33-37-4-3, AS AMENDED BY P.L.85-2004, SECTION 18, AND AS AMENDED BY P.L.95-2004, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:



- (1) IC 31-34 (children in need of services).
- (2) IC 31-37 (delinquent children).
- (3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (6) A document storage fee (IC 33-37-5-20).
- (7) An automated record keeping fee (IC 33-37-5-21).
- (8) A late payment fee (IC 33-37-5-22).
- (9) *A judicial administration fee under (IC 33-37-5-21.2).*
- ~~(10) A judicial insurance adjustment fee under (IC 33-37-5-25).~~

**(11) A judicial salaries fee (IC 33-37-5-27).**

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

- (1) The marijuana eradication program fee (IC 33-37-5-7).
- (2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8."

Page 2, between lines 8 and 9, begin a new line block indented and insert:

**"(8) A judicial salaries fee (IC 33-37-5-27)."**

Page 2, between lines 33 and 34, begin a new line block indented and insert:

**"(6) A judicial salaries fee (IC 33-37-5-27)."**

Page 2, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 7. IC 33-37-4-7, AS AMENDED BY P.L.85-2004, SECTION 22, AND AS AMENDED BY P.L.95-2004, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

- (1) IC 6-4.1-5 (determination of inheritance tax).
- (2) IC 29 (probate).
- (3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A document storage fee (IC 33-37-5-20).
- (3) An automated record keeping fee (IC 33-37-5-21).
- (4) *A judicial administration fee under (IC 33-37-5-21.2).*
- ~~(5) A judicial insurance adjustment fee under (IC~~

33-37-5-25).

**(6) A judicial salaries fee (IC 33-37-5-27).**

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

- (1) Petition to open a safety deposit box.
- (2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
- (3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 8. IC 33-37-5-21.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21.2. (a) This subsection does not apply to the following:

- (1) A criminal proceeding.
- (2) A proceeding for an infraction violation.
- (3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, ~~two~~ **three** dollars (~~\$2~~) (**\$3**).

(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have violated an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, ~~two~~ **three** dollars (~~\$2~~) (**\$3**).

Page 2, line 37, delete "This" and insert "**Except as provided in subsection (c), this**".

Page 3, between lines 3 and 4, begin a new paragraph and insert:

**"(c) This section does not apply to an action in which service is made by publication in accordance with Indiana Trial Rule 4.13.**

SECTION 9. IC 33-37-5-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) **This subsection does not apply to the following:**

- (1) A criminal proceeding.
- (2) A proceeding for an infraction violation.
- (3) A proceeding for an ordinance violation.

**In each action filed in a court described in IC 33-37-1-1 or IC 33-34, the clerk shall collect a judicial salaries fee of nineteen dollars (\$19).**

(b) In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have violated an infraction; or
- (4) found to have violated an ordinance;

**the clerk shall collect a judicial salaries fee of nineteen dollars (\$19)."**

Page 5, line 22, delete "the county" and insert "**each city or town fiscal officer**".

Page 5, line 23, delete "auditor".

Page 5, between lines 23 and 24, begin a new paragraph and insert:

**"(I) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one**

**hundred percent (100%) of the judicial salaries fee collected under IC 33-37-5-27."**

Page 8, after line 15, begin a new paragraph and insert:

**"(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee collected under IC 33-37-5-27.**

SECTION 14. IC 33-37-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars (\$6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

- (1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);
- (2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to twenty-five and twenty-one hundredths percent (25.21%);
- (3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);
- (4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);
- (5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);
- (6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);
- (7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and
- (8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

- (1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and
- (2) after June 30, 2005, two million ~~two~~ **seven** hundred thousand dollars (~~\$2,200,000~~) **(\$2,700,000)**.

SECTION 15. IC 34-26-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. Fees for:

- (1) filing;
- (2) service of process;
- (3) witnesses; or
- (4) subpoenas;

may not be charged for a proceeding seeking relief or enforcement as provided in this chapter, **including a proceeding concerning a foreign protection order as described in section 17 of this**

**chapter.** This section may not be construed to prevent the collecting of costs from a party against whom an order for protection is sought if the court finds a claim to be meritorious and issues an order for protection under this chapter."

Renumber all SECTIONS consecutively.

(Reference is to HB 1113 as reprinted February 8, 2005.)

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

Committee Vote: Yeas 10, Nays 0.

BRAY, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill 1666, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 15-6-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. The board shall do the following:

- (1) Elect from among the board's members a chairperson, vice chairperson, secretary, treasurer, and other officers the board considers necessary.
- (2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.
- (3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.
- (4) Bond the treasurer and other persons as necessary to ensure adequate protection of funds received and administered by the board.
- (5) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.
- (6) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the board and the scope of this chapter.
- (7) Provide for an independent audit, **provide the results of the audit to the state board of accounts and the department of agriculture**, and make the results of the audit available to all interested persons.
- (8) Procure and evaluate data and information necessary for the proper implementation of this chapter.
- (9) Formulate and execute assessment procedures and methods of collection.
- (10) Establish procedures to annually inform all producers regarding board members, policy, expenditures, and programs for the preceding year.
- (11) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.
- (12) Take any other action necessary for the proper implementation of this chapter, including the adoption of rules under IC 4-22-2."

Renumber all SECTIONS consecutively.

(Reference is to HB 1666 as printed February 15, 2005.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 11, Nays 0.

MEEKS, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Engrossed House Bill 1073, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 6, line 12, delete "Address." and insert "**The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.**".

(Reference is to HB 1073 as printed February 18, 2005.)  
and when so amended that said bill do pass.  
Committee Vote: Yeas 8, Nays 0.

RIEGSECKER, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Concurrent Resolution 48, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.

Committee Vote: Yeas 8, Nays 0.

HARRISON, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Concurrent Resolution 42, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said resolution do pass.

Committee Vote: Yeas 8, Nays 0.

HARRISON, Chair

Report adopted.

#### COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Engrossed House Bill 1580, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.  
Committee Vote: Yeas 8, Nays 0.

HARRISON, Chair

Report adopted.

## RESOLUTIONS ON FIRST READING

### Senate Concurrent Resolution 53

Senate Concurrent Resolution 53, introduced by Senator Craycraft:

A CONCURRENT RESOLUTION congratulating the Muncie Burriss High School Girl's Volleyball Team for their outstanding accomplishment in the in the 2004/2005 Indiana High School Athletic Association, "IHSAA," Class 2A Girl's Volleyball Championship.

*Whereas, The team defeated Clinton Central High School, at Butler University in the state championship game at historic Hinkle Fieldhouse in Indianapolis on Saturday, November 6, 2004; 25-19, 25-7, 25-9; and*

*Whereas, The Muncie Burriss High School Volleyball Team had a record of 40 wins and 0 losses; and*

*Whereas, This is the sixteenth State Girl's Volleyball Championship for Muncie Burriss High School; and*

*Whereas, The team has won 30 or more matches for the 23rd consecutive year and with an overall record of 999 wins and 79 losses; and*

*Whereas, Muncie Burriss has won four National Championships and has been runner-up three times; and*

*Whereas, Head Coach Steve Shondell has served as head coach since 1977; and*

*Whereas, Team members Brittany Fullhart, Jill MacMillan and Kappy Lang received 2004 Class 2A All-State 1st team recognition; and*

*Whereas, Team members Hana Ros, Alaina Gibson, Caitlyn Vann and Lauren Kaminsky received 2004 Class 2A All-State 2nd team recognition; and*

*Whereas, The Muncie Burriss Girl's Volleyball Team led by Head Coach Steve Shondell, Varsity Assistants Reece Peacock and Emily Sallee, Junior Varsity Coach Lenny Kaminsky, Athletic Director Ray Dawson, Principal Dr. Jay McGee, and includes team members Hannah Cheesman, Alaina Gibson, Molly Davis, Caitlyn Vann, Brittany Fullhart, Karin Caudill, Hana Ros, Christie Waters, Teresa Craig, Lauren Kaminsky, Jill MacMillan, Kappy Lang, Leslie White, Katie Evans, and Bonnie Kaminsky: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:*

SECTION 1. That the General Assembly of the State of Indiana honor the Muncie Burriss High School Girl's Volleyball Team for its accomplishment in winning the 2004/2005 IHSAA Class 2A Girl's State Volleyball Championship and extend its congratulations to team members, coaches, and to the school.

SECTION 2. That the Secretary of the Senate shall transmit a copy of this resolution to each team member, Coach Steve Shondell, Varsity Assistants, Reece Peacock, Emily Sallee, J.V. Coach Lenny Kaminsky, Athletic Director Ray Dawson, and Principal Dr. Jay McGee.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Davis and Adams.

Senator Garton yielded the gavel to Senator Wyss.

#### **House Concurrent Resolution 29**

House Concurrent Resolution 29, sponsored by Senator Lubbers:

A CONCURRENT RESOLUTION recognizing the one year anniversary of the University of Phoenix, Indianapolis Campus.

*Whereas, The University of Phoenix is proudly celebrating its first year anniversary in Indianapolis and has over 130 campuses nationwide including, a campus in Puerto Rico and a campus in Canada;*

*Whereas, Over 230,180 students are enrolled nationwide in the program which includes approximately 400 students at the Indianapolis campus;*

*Whereas, The University of Phoenix employs 105 faculty and administrative support staff locally;*

*Whereas, Bachelors, Masters, and Doctorate degrees can be obtained from the University in areas of study such as e-Business, Technology Management, Information Systems, Criminal Justice, Education, Counseling, and Nursing;*

*Whereas, The University of Phoenix is fully accredited by The Higher Learning Commission and is a member of the North Central Association;*

*Whereas, Customized training and onsite programs are offered at many large corporations as well as small classroom settings for more personalized learning;*

*Whereas, The University of Phoenix prides itself in offering programs in a fast-paced, interactive classroom format that provides a high quality education in the most expedient way possible for working adults; and,*

*Whereas, The University of Phoenix is providing higher education opportunities to the community and continues to grow its student population and expand its local workforce in the city of Indianapolis: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana House of Representatives, the Senate concurring, recognizes the one year anniversary of the University of Phoenix, Indianapolis Campus.

SECTION 2. That the Principal Clerk of the House of Representatives transmit copies of this resolution to Simon Lumley, Vice President for the University of Phoenix in Indiana.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

#### **MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 29 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS  
Principal Clerk of the House

### **ENGROSSED HOUSE BILLS ON SECOND READING**

#### **Engrossed House Bill 1033**

Senator Gard called up Engrossed House Bill 1033 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

#### **Engrossed House Bill 1059**

Senator Gard called up Engrossed House Bill 1059 for second reading. The bill was read a second time by title.

#### **SENATE MOTION (Amendment 1059-1)**

Madam President: I move that Engrossed House Bill 1059 be amended to read as follows:

Page 2, line 35, after "must" insert "**coordinate the transport with the appropriate state agencies of each state through which the substance will be transported and**".

Page 2, line 36, after "file" insert "**in Indiana**".

Page 2, line 36, after "police department," insert "**and**".

Page 2, line 37, delete ", and the corresponding state" and insert ":",

Page 2, delete lines 38 through 39.

(Reference is to EHB 1059 as printed March 22, 2005.)

GARD

Motion prevailed. The bill was ordered engrossed.

#### **Engrossed House Bill 1078**

Senator Weatherwax called up Engrossed House Bill 1078 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

#### **Engrossed House Bill 1135**

Senator Ford called up Engrossed House Bill 1135 for second reading. The bill was read a second time by title.

SENATE MOTION  
(Amendment 1135-1)

Madam President: I move that Engrossed House Bill 1135 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-22-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) Except as provided in section 23.1 of this chapter, this section does not apply to the adoption of rules:

(1) ~~required by statute if initiation of the rules is contingent upon the receipt of a waiver under federal law, to receive or maintain:~~

(A) ~~delegation;~~

(B) ~~primacy; or~~

(C) ~~approval;~~

**for state implementation or operation of a program established under federal law;**

(2) that amend an existing rule;

(3) ~~required or authorized~~ by statutes enacted before June 30, 1995; or

(4) ~~required or authorized~~ by statutes enacted before June 30, 1995, and recodified in the same or similar form after June 29, 1995, in response to a program of statutory recodification conducted by the code revision commission.

(b) If an agency will have statutory authority to adopt a rule at the time that the rule becomes effective, the agency may conduct any part of its rulemaking action before the statute authorizing the rule becomes effective.

(c) However, an agency shall:

(1) begin the rulemaking process not later than sixty (60) days after the effective date of the statute that authorizes the rule; or

(2) if an agency cannot comply with subdivision (1), ~~immediately~~ provide written notification to the administrative rules oversight committee stating the reasons for the agency's noncompliance.

If an agency notifies the administrative rules oversight committee concerning a rule in compliance with subdivision (2), failure to adopt the rule within the time specified in subdivision (1) does not invalidate the rule."

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 3. IC 4-22-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) This section does not apply to rules adopted under IC 4-22-2-37.1.

(b) ~~At least twenty-eight (28) days before or after~~ an agency notifies the public of ~~its the agency's~~ intention to adopt a rule under section 24 of this chapter, the agency shall notify the public of its intention to adopt a rule by publishing a notice of intent to adopt a rule in the Indiana Register. ~~at least thirty (30) days before the preliminary adoption of the rule.~~ The publication notice must include an overview of the intent and scope of the proposed rule and the statutory authority for the rule.

(c) The requirement to publish a notice of intent to adopt a rule **under subsection (b)** does not apply to rulemaking under IC 13-14-9. ~~The~~

(d) **In addition to the procedures required by this article, an agency shall may** solicit comments from the public on the need for a rule, the drafting of a rule, or any other subject related to a rulemaking action. The procedures that the agency may use include the holding of conferences and the inviting of written suggestions, facts, arguments, or views.

(e) The agency shall prepare a written response that contains a summary of the comments received during any part of the rulemaking process. The written response is a public document. The agency shall make the written response available to interested parties upon request."

Page 3, between lines 10 and 11, begin a new line and insert:

**"The attorney general may require the agency to submit any supporting documentation that the attorney general considers necessary for the attorney general's review under section 32 of this chapter. The agency may submit any additional supporting documentation the agency considers necessary."**

Page 3, line 11, strike "attorney general shall determine the number of copies of the".

Page 3, line 12, strike "rule".

Page 3, line 12, after "section." insert **"agency shall submit the following documents to the attorney general:"**.

**"(1) One (1) original copy of the rule.**

**(2) Two (2) copies of the rule.**

**(3) One (1) copy of any matters incorporated by reference under section 21 of this chapter.**

**(4) Two (2) copies of any supporting documentation submitted under subsection (a).**

SECTION 6. IC 4-22-2-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) After a rule has been approved or deemed approved under section 32 of this chapter, the agency shall submit the rule to the governor for approval. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter.

(b) ~~The agency shall submit to the governor shall determine the number of the~~ copies of the rule and other documents ~~to be submitted under this section; specified in section 31 of this chapter.~~

SECTION 7. IC 4-22-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) When a rule has been approved or deemed approved by the governor within the period allowed by section 25 of this chapter, the agency shall immediately submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter.

(b) ~~The agency shall submit to the secretary of state shall determine the number of the~~ copies of the rule and other documents ~~to be submitted under this section; specified in section 31 of this chapter.~~

(c) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time the rule is accepted on every duplicate original copy submitted.

SECTION 8. IC 4-22-2-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) When an

agency submits a rule for filing under section 35, 37.1, or 38 of this chapter, the secretary of state may accept the rule for filing only if the following conditions are met:

(1) ~~A sufficient number of duplicate original copies of the rule are~~ **The following documents are** submitted to allow the secretary of state to comply with IC 4-22-7-5:

(A) **One (1) original copy of the rule.**

(B) **Two (2) copies of the rule.**

(C) **One (1) copy of any matters incorporated by reference under section 21 of this chapter.**

(D) **Two (2) copies of any supporting documentation submitted under section 31(a) of this chapter.**

(2) Each submitted copy includes a reference to the document control number assigned to the rule by the publisher.

(3) Each submitted copy indicates that the agency has conducted its rulemaking action in conformity with all procedures required by law. However, if section 31 of this chapter applies to the rule, the secretary of state shall rely on the approval of the attorney general as the basis for determining that the agency has complied with all procedures required before the date of the approval.

(b) If a rule includes a statement that the rule is not effective until:

- (1) an agency has complied with requirements established by the federal or state government;
- (2) a specific period of time has elapsed; or
- (3) a date has occurred;

the agency has complied with subsection (a)(3) even if the described event or time has not occurred before the secretary of state reviews the rule under this section.

(c) The secretary of state shall take no more than three (3) business days to complete the review of a rule under this section.

SECTION 9. IC 4-22-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsection (b) or section 1.1 of this chapter, an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

(b) An administrative rule that:

- (1) was adopted under IC 4-22-2;
- (2) is in force on December 31, 1995; and
- (3) is not amended by a rule that takes effect after December 31, 1995, and before January 1, 2002;

expires not later than January 1, 2002.

(c) **The determination of whether an administrative rule expires under this chapter shall be applied at the level of an Indiana Administrative Code section.**

SECTION 10. IC 4-22-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as provided in subsection (b), an agency may readopt all rules subject to expiration under this chapter under one (1) rule that lists all rules that are readopted by their titles and subtitles only. A rule that has expired but is readopted under this subsection may not be removed from the Indiana Administrative Code.

(b) If, not later than thirty (30) days after an agency's publication of notice of its intention to adopt a rule under ~~IC 4-22-2-24~~ **IC 4-22-2-23** using the listing allowed under subsection (a), a person submits to the agency a written request and the person's basis for the request that a particular rule be readopted separately from the readoption rule described in subsection (a), the agency must:

(1) readopt that rule separately from the readoption rule described in subsection (a); and

(2) follow the procedure for adoption of administrative rules under IC 4-22-2 with respect to the rule.

(c) If the agency does not receive a written request under subsection (b) regarding a rule within thirty (30) days after the agency's publication of notice, the agency may:

(1) submit the rule for filing with the secretary of state under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule; or

(2) elect the procedure for readoption under IC 4-22-2.

SECTION 11. IC 4-22-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. An agency shall maintain a ~~duplicate original~~ copy of each rule that has been filed with the secretary of state (including documents filed with the secretary of state under IC 4-22-2-21) under a retention schedule established by the commission on public records."

Page 3, line 14, strike "Except as provided in".

Page 3, line 15, strike "subsection (f)".

Page 3, line 15, delete "the" and insert "**The**".

Page 3, line 15, strike "a duplicate".

Page 3, line 15, after "duplicate" insert "**the**".

Page 3, line 18, delete "." and insert "**and one (1) copy of any supporting documentation submitted under section 31 of this chapter.**".

Page 3, line 21, strike "two".

Page 3, line 22, strike "(2) duplicate copies" and insert "**one (1) copy**".

Page 3, line 23, after "publisher." insert "**The secretary of state shall also return to the agency one (1) copy of the rule and one (1) copy of any supporting documentation submitted under section 31 of this chapter.**".

Page 3, strike lines 29 through 42.

Page 4, strike lines 1 through 7.

Page 6, after line 38, begin a new paragraph and insert:

"SECTION 18. IC 13-14-9.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in subsection (b) or section 1.1 of this chapter, an administrative rule adopted under IC 13-14-9 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.

(b) An administrative rule that:

(1) was adopted under a provision of IC 13 that has been repealed by a recodification of IC 13;

(2) is in force on December 31, 1995; and

(3) is not amended by a rule that takes effect after December 31, 1995, and before January 1, 2002;

expires not later than January 1, 2002.

**(c) The determination of whether an administrative rule expires under this chapter shall be applied at the level of an Indiana Administrative Code section."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1135 as printed March 22, 2005.)

FORD

Motion prevailed. The bill was ordered engrossed.

#### **Engrossed House Bill 1183**

Senator Dillon called up Engrossed House Bill 1183 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

#### **Engrossed House Bill 1653**

Senator Gard called up Engrossed House Bill 1653 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

### **ENGROSSED HOUSE BILLS ON THIRD READING**

#### **Engrossed House Bill 1039**

Senator Heinold called up Engrossed House Bill 1039 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 309: yeas 46, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

### **RESOLUTIONS ON FIRST READING**

#### **House Concurrent Resolution 28**

House Concurrent Resolution 28, sponsored by Senators Alting, Rogers, and Bowser:

A CONCURRENT RESOLUTION recognizing the Center for Education and Research Information Assurance and Security (CERIAS).

*Whereas, The Center for Education and Research Information Assurance and Security (CERIAS) at Purdue University was founded in 1998 and is widely recognized as the world's foremost academic center of excellence in issues of information security and privacy;*

*Whereas, CERIAS has been organized as a multidisciplinary center at Purdue with over 100 affiliated faculty, staff, and graduate students on the Purdue campus interacting with business and industry to conduct research into privacy, computer and network protection, e-commerce safety, cybercrime prevention and*

*investigation, computer-based terrorism, and national defense;*

*Whereas, The week of March 21 - 27 has been proclaimed Indiana Information Security Week in order to bring attention to the challenges posed by information security threats;*

*Whereas, This public awareness initiative will include events and activities designed to enhance the security literacy and skills of Indiana businesses, organizations, and citizens, and will kick off with an Information Security Symposium presented by CERIAS during the week of March 21 that will focus on issues of privacy, protection of intellectual and proprietary property, security education, and intrusion detection;*

*Whereas, Throughout the month of April, the Indiana Information Security Awareness Initiative will take a multilayered and multipronged approach to increasing security literacy and skills in order to position Indiana at the forefront of study and information regarding information assurance and security; and*

*Whereas, Indiana Information Security Week's efforts to raise awareness will include the development of media guides and information campaigns, the provision of information and resources to agencies, business leaders, and organizations to increase the security skills of businesses engaged in a variety of e-commerce activities, and the provision of information and assistance to public decision makers for use in developing appropriate security policies and legislation: Therefore,*

*Be it resolved by the House of Representatives  
of the General Assembly of the State of Indiana,  
the Senate concurring:*

SECTION 1. That the members of the Indiana General Assembly wish to recognize the efforts of the Center for Education and Research Information Assurance and Security (CERIAS) in bringing attention to the challenges posed by information security threats.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the members of the Center for Education and Research Information Assurance and Security (CERIAS).

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

#### **MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Joint Resolution 7 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

#### **MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the

Senate that the House has passed Senate Concurrent Resolutions 44, 45, and 51 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

## REPORT OF THE PRESIDENT PRO TEMPORE

Pursuant to Rule 81(b), of the Standing Rules and Orders of the Senate, President Pro Tempore Robert D. Garton has appointed the following senators to serve as Senate conferees (or advisors) on Engrossed Senate Bill 444:

Conferees: M. Young, Chair and Skinner  
Advisors: Bray and Broden

GARTON  
Date: 3/23/05  
Time: 10:23 a.m.

## REPORTS FROM COMMITTEES

### COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1488 because it conflicts with House Enrolled Act 1288-2005 without properly recognizing the existence of HEA 1288-2005, has had EHB 1488 under consideration and begs leave to report back to the Senate with the recommendation that EHB 1488 be corrected as follows:

Page 2, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 3. IC 20-20-26-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a) As used in this section, "phonologic weakness" means a difficulty of constitutional or environmental origin which, if not strengthened to adequate levels in the context of conventional instruction, results in difficulty in learning to read, write, spell, and recall. Phonologic weakness underlies reading difficulty across race, ethnicity, and cultural and economic diversities.**

**(b) The department shall develop and implement a plan to:**

- (1) train teachers, especially the teachers directly involved in reading and language arts, about phonologic weakness and its role in reading development;**
- (2) determine which reading instruments can be used to detect phonologic weakness before formal reading instruction begins;**
- (3) determine which reading instruments can be used to assess student reading and spelling development; and**
- (4) apply the results of the assessment using reading instruments to a child's instructional program.**

SECTION 4. IC 20-20-26-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. (a) The department shall develop a technical assistance manual necessary to implement this chapter. The department shall adopt reading instruments that a school shall use to assess student reading and writing**

**development.**

**(b) Each instrument adopted by the department under this section must be based on scientific research concerning reading development and must have adequate reliability and validity."**

Page 2, line 16, delete "IC 20-10.1-21-7 and IC 20-10.1-21-8," and insert "**IC 20-20-26-4 and IC 20-20-26-5,**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1488 as printed March 18, 2005.)

GARTON, Chair  
R. YOUNG, R.M.M.  
MILLER, Sponsor

Report adopted.

### SENATE MOTION

Madam President: I move that Senator Antich-Carr be added as cosponsor of Engrossed House Bill 1358.

MILLER

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senator M. Young be added as cosponsor of Engrossed House Bill 1335.

KRUSE

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senator Rogers be added as second sponsor of Engrossed House Bill 1057.

WYSS

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senator Broden be added as cosponsor of Engrossed House Bill 1270.

WYSS

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senators Craycraft, Heinold, and Hershman be added as cosponsors of Engrossed House Bill 1594.

LANDSKE

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senators Mishler, Paul, Waterman, Weatherwax, Hume, Lewis, and Mrvan be added as cosponsors of Engrossed House Bill 1008.

JACKMAN

Motion prevailed.



SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Monday, March 28, 2005.

GARTON

Motion prevailed.

The Senate adjourned at 2:16 p.m.

MARY C. MENDEL  
Secretary of the Senate

REBECCA S. SKILLMAN  
President of the Senate